



UNITED STATES PATENT AND TRADEMARK OFFICE

mn
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,783	01/23/2004	Scott F. Watson	54317-048500	9741

46560 7590 05/29/2007
THE WALT DISNEY COMPANY
C/O GREENBERG TRAURIG LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA, CA 90404

EXAMINER

WANG, LIANGCHE

ART UNIT	PAPER NUMBER
----------	--------------

2155

MAIL DATE	DELIVERY MODE
-----------	---------------

05/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/764,783

Applicant(s)

WATSON, SCOTT F.

Examiner

Liang-che Alex Wang

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 31-60 are presented for examination.
2. Claims 1-30, 61-90 are cancelled.
3. Restriction Requirement filed on 10/12/2006, Response to Election filed on 11/13/2006, and Office Action file don 12/08/2006 are withdrawn.

Specification

4. The abstract of the disclosure is objected to because The Abstract is too long and not in a single paragraph. Correction is required. See MPEP § 608.01(b).
5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to **a single paragraph** on a separate sheet within the range of 50 to 150 words. It is important that the abstract **not exceed 150 words** in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Art Unit: 2155

6. The disclosure is objected to because of the following informalities: Page 7, line 13, discloses “240, 260, and 270 and data store 270”, the phrase “and 270” should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 51-60 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. See MPEP § 2106.01. Claims 21-30 recites “an article of manufacture comprising a computer program carrier readable by a computer”, however, a computer program having code recorded on a computer readable medium such as carrier wave or optical wave is not tangible since such computer transport medium does not fall into the categories of “process”, “machine”, “manufacture” and “composition of matter”. Furthermore, the computer program stored on carrier wave is not operable if not executed by a computer or system. Therefore, the inoperative of the computer program stored on a computer transport medium lacks utility. Intrinsic evidence as disclosed in page 13 lines 16-22 of the specification.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2155

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 31-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Dwek, US Patent Number 6,248,946, hereinafter Dwek.
11. Referring to claim 31, Dwek teaches a method (Col 4 lines 18-21) of providing data to a user of a client computer (client 130, Figure 1) connected to multiple data stores (Song File Server 116) and multiple other computers (Streaming Server 118 and other client 130s), the method comprising the steps of: providing a user interface (user interface 250, figure 2) to enable the user to identify desired data (Col 4 lines 35-38, user selection); retrieving the desired data (Col 4 lines 63-65, locating music file); and providing the desired data to the user (Col 4 lines 65-67, returning back to user).
12. Referring to claim 32, Dwek teaches the method of claim 31, wherein the user interface provides categories of data (figure 3A).
13. Referring to claim 33, Dwek teaches the method of claim 32, wherein the categories of data include music categories (figure 3A).
14. Referring to claim 34, Dwek teaches the method of claim 32, wherein the categories of data include news categories (Col 12 lines 15-22, new recording release corresponds to news categories).
15. Referring to claim 35, Dwek teaches the method of claim 31, wherein the desired data comprises one or more music files that are played with a media player (Col 8 lines 19-26, songs are played by user's music player).

Art Unit: 2155

16. Referring to claim 36, Dwek teaches the method of claim 35, further comprising providing a music controller (Col 2 lines 16-26, figure 3A).
17. Referring to claim 37, Dwek teaches the method of claim 35, wherein the user interface enables a user to create music filters (Col 2 lines 16-23).
18. Referring to claim 38, Dwek teaches the method of claim 37, wherein a music filter comprises data on how frequently a music file is to be played (Col 2 lines 16-23, play frequency).
19. Referring to claim 39, Dwek teaches the method of claim 35, wherein the user interface enables a user to create a custom station (Col 9 lines 18-30, figure 3B).
20. Referring to claim 40, Dwek teaches the method of claim 39, wherein the user interface enables a user to share the custom station with another user (Col 9 lines 32-45).
21. Referring to claims 41-60 claims 41-60 encompass the same scope of the invention as that of the claims 31-40. Therefore, claims 41-60 are rejected for the same reason as the claims 31-40.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

Art Unit: 2155

23. Wynblatt et al., US Patent Number, 6,546,421, teaches a system and method for automatic selection of Internet data streams (figure 2)
24. Bakshi et al., US Patent Number, 6,345,300, teaches a firewall proxy and a network proxy lie between clients and content servers (figure 1).
25. Knauerhase, US Patent Number, 6,237,037, teaches system for dynamically controlling a proxy (see title).
26. Antur et al., US Patent Number, 6,243,815, teaches a method for managing firewalls and security devices.
27. Clark et al., US Patent Number 6,442,588, teaches a method for administering a dynamic filtering firewall.
28. El-Rafie, US Patent Number 6,968,394, teaches asymmetric satellite-based Internet service (see title).
29. Ramaswamy, US Patent Number 6,423,892, teaches while playing one of the music files that has already been retrieved, retrieving additional music files ((Col 4 lines 26-32).
30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liang-che Alex Wang whose telephone number is (571)272-3992. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.
31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571)272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2155

32. Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

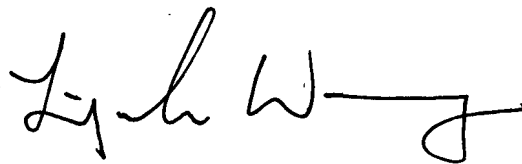
information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

Liang-che Alex Wang
May 15, 2007

A handwritten signature in black ink, appearing to read "Lich Wang", with a stylized flourish at the end.